

APPEAL NO. 022214  
FILED OCTOBER 24, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 12 and March 12, 2002. In Texas Workers' Compensation Commission Appeal No. 021250, decided July 3, 2002, the Appeals Panel reversed the hearing officer's decision and remanded the case to the hearing officer. In the decision on remand, the hearing officer decided that the respondent/cross-appellant (claimant) sustained a repetitive trauma injury to his cervical spine in the course and scope of his employment; that the date of injury under Section 408.007 was \_\_\_\_\_; that the appellant/cross-respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely reported the injury to his employer; that the carrier is not relieved of liability under Section 409.004 because the claimant timely filed his claim for compensation with the Texas Workers' Compensation Commission; that the claimant had disability from September 14, 2001, and continuing as of March 12, 2002; and that the carrier did not waive its right to contest compensability of the injury. The carrier appeals the hearing officer's determinations on the issues of injury, date of injury, notice of injury, claim filing, and disability. The claimant appeals the hearing officer's determination on the waiver issue. Each party filed a response.

DECISION

The hearing officer's decision on remand is affirmed.

We agree with the carrier's contention that the hearing officer erred in failing to make a determination as to whether the treating doctor's report of March 5, 2002, was provided to the hearing officer and the carrier prior to the date the CCH record was closed on April 11, 2002. However, considering the appeals, the responses, and the CCH record, we cannot conclude, under the particular circumstances of this case, that the hearing officer committed reversible error in admitting that report into evidence. Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the appealed determinations are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order on remand are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GEORGE MICHAEL JONES  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge